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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,171	08/09/2000	Emanuel Israel Cooper	13521(ARC9-2000-0067-US1)	5758

7590 07/23/2002

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EXAMINER

SHEEHAN, JOHN P

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 07/23/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

09/634,171

Applicant(s)

COOPER ET AL.

Examin r

John P. Sheehan

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

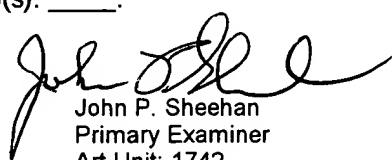
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1 to 10.

Claim(s) withdrawn from consideration: 11-27.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


John P. Sheehan
Primary Examiner
Art Unit: 1742

Continuation of 2. NOTE: The new limitations, "thin film" and "between about 25% and about 45%" have never before appeared in the claims and raise new issues including the question of new matter. In their response applicants have included several references which define the term, "thin film". These definitions vary from defining a thin film as having a thickness of "generally less than 1 micron" (Academic Press Dictionary of Science and Technology) to "several tens of microns" (the journal Thin Films). In view of the diversity of definitions set forth in the references submitted by the applicants it is not clear what the metes and bounds are of the term "thin film". Further, the term "thin film" raises issues of new matter in that applicants have disclosed that the alloy of the instant invention can be made in thicknesses "up to 2 microns" (specification, page 11, line 5) whereas in view of the references cited by applicants it appears that applicants are attempting to define the "thin film" as used in the claims as having a thickness of up to several tens of microns. There is no support in the specification as filed for the claimed "thin film" to have a thickness of several tens of microns.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are all directed to the limitation regarding "thin film". However, applicants's proposed amendment introducing "thin film" into the claims has not been entered and therefore applicants' arguments are considered to be moot.